

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

KATI A. RODRIGUEZ and
MARCOS RODRIGUEZ, as
parents and natural guardians of
A. Rodriguez and C. Rodriguez, minors,

Plaintiffs,

v.

Case No. 8:23-cv-726-WFJ-AEP

GEICO GENERAL INSURANCE COMPANY,

Defendant.

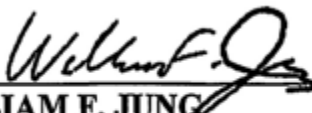
ORDER

Upon due and careful consideration of the parties' Stipulation to Dismiss Without Prejudice Count II (Bad Faith) of the First Amended Complaint (Dkt. 14), the Court construes the stipulation as a motion to dismiss and denies dismissal for the following reasons.

Two issues arise from the parties' attempt to dismiss the bad faith count at this juncture. First, the Eleventh Circuit recently reiterated that Federal Rule of Civil Procedure 41(a) does not permit the dismissal of certain claims or counts—anything other than an entire action. *Rosell v. VMSB, LLC*, __ F.4th __, 2023 WL 3398509, at *2 (11th Cir. May 12, 2023). Second, in this District, some courts have held bad faith claims in abeyance pending resolution of the coverage claim. *See, e.g., Richards v. GEICO Gen. Ins. Co.*, No. 5:20-cv-385-JSM-PRL, 2020 WL

13572627, at *1 (M.D. Fla. Sept. 14, 2020); *Meehan v. State Farm Mut. Auto. Ins. Co.*, No. 6:15-cv-490-22DAB, 2015 WL 13567352, at * 1 (M.D. Fla. Apr. 20, 2015) (collecting cases and noting split among courts); *Cicero v. Liberty Mut. Ins. Co.*, No. 3:15-cv-76-HES-PDB, 2015 WL 12843200, at *5 (M.D. Fla. Apr. 16, 2015) (noting different interpretations and abating bad faith claim). Following this precedent and under the circumstances of this case, the Court holds in abeyance the bad faith claim (Count II) until the uninsured motorist claim (Count I) is adjudicated in this removed action. The construed motion to dismiss without prejudice (Dkt. 14) is denied.

DONE AND ORDERED at Tampa, Florida, on June 1, 2023.



WILLIAM F. JUNG
UNITED STATES DISTRICT JUDGE

COPIES FURNISHED TO:
Counsel of record